

1950

c 83 Crown Witnesses Act

Ontario

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Bibliographic Citation

Crown Witnesses Act, RSO 1950, c 83

Repository Citation

Ontario (1950) "c 83 Crown Witnesses Act," *Ontario: Revised Statutes*: Vol. 1950: Iss. 1, Article 86.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1950/iss1/86>

CHAPTER 83

The Crown Witnesses Act

1. In this Act,

Interpre-
tation.

- (a) "judge" means the judge presiding at any sittings of the Supreme Court, the court of general sessions of the peace, the county or district court judges' criminal court, or the magistrate presiding in a court for the summary trial of indictable offences under the *Criminal Code* (Canada), or the magistrate or justice of the peace holding a preliminary inquiry; R.S.C., 1927, c. 36.

- (b) "trial" includes a preliminary inquiry before a magistrate or justice of the peace. R.S.O. 1937, c. 142, s. 1.

2.—(1) The judge may grant to any person who attends at the instance of the Crown to give evidence an order for the payment of such sum as he deems proper but not more than is provided for in the Schedule to this Act, provided that the sum ordered to be paid may be increased upon the fiat of the Attorney-General in order that the witness may be reasonably compensated for his attendance at the trial. 1949, c. 23, s. 1. Compensa-
tion to
Crown
witnesses.

(2) The judge may include in his order such sum in addition to ordinary witness fees as he may deem reasonable and sufficient to compensate any witness by whom a plan has been prepared or any other article furnished or work done for use at the trial for his costs and charges in preparing such plan or other article or doing such work. Additional
fees.

(3) A special fee may be paid to an expert witness upon the fiat of the Attorney-General. R.S.O. 1937, c. 142, s. 2 (2, 3). Special fee.

3. Where a bill of indictment has not been preferred, or where the trial has not been proceeded with, the judge may make a similar order in favour of any person who, in his opinion, *bona fide* attended the court in obedience to a recognition or subpoena, or at the instance of the Crown. R.S.O. 1937, c. 142, s. 3. Where no
indictment
preferred or
trial had.

Certificate
whereon
order to be
made.

4.—(1) The order shall not be made except on a certificate by the counsel for the Crown, and by the Crown attorney or his representative containing the particulars necessary in the affidavit required in civil cases to entitle a party to disbursements to witnesses, and shall be to the like effect, but the judge may require further evidence.

When
certificate
unnecessary.

(2) When the Crown attorney is not present at a preliminary inquiry before a magistrate, or justice of the peace, no certificate shall be necessary. R.S.O. 1937, c. 142, s. 4.

Order, how
made out
and to whom
directed.

5. The order shall be prepared by the proper officer of the court and shall be directed to the treasurer of the county in which the offence was committed or was supposed to have been committed, or, if the offence was committed or was supposed to have been committed in a city, or in a town separated for municipal purposes from the county, the order shall be directed to the treasurer of the city or town. R.S.O. 1937, c. 142, s. 5.

Payment
by the
treasurer.

6. The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to each of the witnesses named the amount stated in the certificate, on his signing a receipt therefor in person. R.S.O. 1937, c. 142, s. 6.

Payment by
a treasurer
on whom
order is not
made.

7. Where the trial takes place in a county other than the county in which the offence was committed the treasurer of the county in which the trial takes place, if applied to by the witness, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer to whom the order is directed. R.S.O. 1937, c. 142, s. 7.

Reimburse-
ment of
one-third
by Province.

8. One-third of the amount paid to witnesses under this Act shall be paid to the county treasurer out of the Consolidated Revenue Fund if such payment is approved by the county board of audit and where such amount has been paid by a municipality other than the county, the county treasurer shall pay to such municipality the amount to which it is entitled. R.S.O. 1937, c. 142, s. 8.

Idem;
where
witnesses
from un-
organized
districts.

9. In respect of witnesses in cases sent from the unorganized districts for trial in any county the expenses of the witnesses shall be repaid in full out of the Consolidated Revenue Fund. R.S.O. 1937, c. 142, s. 9.

Witness in
cases tried
in unorgan-
ized districts.

10. The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending a sitting of any court

held in any provisional judicial district, and shall be so paid under such regulations as the Lieutenant-Governor in Council may prescribe. R.S.O. 1937, c. 142, s. 10.

11. Where witness fees paid under this Act are, by virtue of the judgment of the court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the municipality, and one-third accounted for by the municipality to the Crown. R.S.O. 1937, c. 142, s. 11. Where municipality to be repaid.

12.—(1) The Crown attorney shall be entitled to receive from the corporation of the county in which the court is held a fee of \$1 in respect of every prosecution or trial on which a witness is examined, which sum shall be over and above his other costs and charges and shall cover the costs, charges and expenses of and incidental to the certificate, or the inquiry whether a certificate should be granted. Fee to Crown attorney in respect of certificate.

(2) One-third of such fee shall be paid to the corporation out of the Consolidated Revenue Fund. R.S.O. 1937, c. 142, s. 12. Reimbursement.

13. In the case of an information, action, or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of His Majesty against any person for the use of Ontario, or for the recovery of the possession of any land, deeds or personal property whereto His Majesty claims to be entitled for the use of Ontario, the witnesses shall be entitled to be paid the like witness fees as are payable in actions between subject and subject. R.S.O. 1937, c. 142, s. 13. Witness fees payable on prosecution of claims, etc., by His Majesty.

14. Nothing in this Act shall entitle a witness to require payment of any sum before the determination by adjournment or otherwise of the prosecution or trial at which he attends as a witness. R.S.O. 1937, c. 142, s. 14. When compensation payable.

15. Where any commission has issued to take the evidence of any witness, the fees and expenses incurred in and by the issue of the commission and the taking of the evidence shall be paid in the same manner as witness fees, upon the certificate of the Attorney-General, the Deputy Attorney-General or the Crown attorney. 1942, c. 34, s. 9. Where evidence taken by commission.

SCHEDULE

(Section 2 (1))

WITNESS FEES AND ALLOWANCES

1. Attending trial, each day—\$3.

Barristers, solicitors, physicians and surgeons when called upon to give evidence in consequence of any professional service rendered by them or to give professional opinions, each day—\$7.

Engineers, accountants, surveyors and architects when called upon to give evidence in consequence of any professional service rendered by them or to give evidence depending upon their skill or judgment, each day—\$7.

2. Where witness resides more than three miles from place of trial and travels by public conveyance other than taxi, the amounts reasonably and actually paid; where he travels in his own automobile, 8 cents for each mile necessarily travelled, but if a public conveyance other than taxi is available no witness shall be allowed mileage of more than 200 miles in respect of each day.

Where the witness is required to attend trial on more than one day and returns to his place of residence at night the allowance may be in respect of each day's attendance.

3. Where the witness resides elsewhere and is required to remain at the place of trial overnight, the amount reasonably and actually paid for living expenses, but not more than \$6 for each day.

1949, c. 23, s. 2.
